

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JUSTIN JAMES EDMISTEN,

Petitioner,

VS.

DWIGHT NEVEN, et al.,

Respondents.

Case No. 2:15-cv-00952-RFB-NJK

ORDER

Before the court are petitioner's motion to partially vacate March 21, 2017 order (ECF No. 26), respondents' opposition (ECF No. 28), and petitioner's reply (#31). Petitioner asks the court to vacate the determination that ground 1 is not exhausted and to allow him to file a counseled response to the motion to dismiss. Counsel still would be arguing off a proper-person petition. The better way to handle the matter is to allow counsel to file an amended petition. Respondents can raise all available procedural defenses to the amended petition, if they wish.

IT IS THEREFORE ORDERED that petitioner's motion to partially vacate March 21, 2017 order (ECF No. 26) is **GRANTED**. The part of the court's order of March 21, 2017 (ECF No. 17) that granted respondents' motion to dismiss in part (ECF No. 14) is vacated.

IT IS THEREFORE ORDERED that respondents' motion to dismiss is **DENIED** as moot.

IT IS FURTHER ORDERED that petitioner will have sixty (60) days from the date of entry of this order to file an amended petition for a writ of habeas corpus.

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1 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof
2 signifies or will signify any implied finding of a basis for tolling during the time period established.
3 Petitioner at all times remains responsible for calculating the running of the federal limitation period
4 under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

5 DATED: March 29, 2018.

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11 RICHARD F. BOULWARE, II
12 United States District Judge
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